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TWENTIETH ANNUAL MEETING

The annual meetings of the American Library Association and affiliated organizations, one of which is the American Association of Law Libraries, will be held in Seattle, Washington, during the week beginning July 6, 1925.

President Wheeler has written to many members of the Association inquiring as to their wishes with reference to the coming annual meeting, and the replies received indicate a very general opinion that the Association should meet with the American Library Association as heretofore. The Association is national in character and has never had an opportunity of meeting in the far northwest. It is the urgent desire of the western members that the meeting be held in Seattle and most of the eastern members are willing to meet in that city even though some of them will find it impossible to be present. It is hoped that the meeting will be largely attended. Those who come from a distance may feel sure of a hearty welcome and a most interesting and profitable conference.

The preliminary travel announcement as contained in the November Bulletin of the American Library Association is as follows:

For the Seattle conference, July 6 to 11, the Travel Committee is planning tentatively a special train party via Glacier National Park, with a two-day trip through the Park. An eleven-day excursion to southeastern Alaska is a probability for a post-conference trip, and for the return east, either after or without the Alaska trip, there will be the choice of routes: 1. Canadian Rockies, Lake Louise and Banff; 2. Yellowstone Park; 3. San Francisco and thence eastward via either Colorado or the Grand Canyon of Arizona. There are also the further alternatives of a quick return via the Chicago, Milwaukee & St. Paul and the newer Canadian trip through Jasper Park via the Canadian National Railways.

APPROXIMATE EXPENSE

Round trip, Seattle and return via Northern routes		Pullman lower both ways
New York	$138.00	$69.00
Boston	145.00	71.00
Washington	130.00	67.00
Pittsburgh	113.00	69.00
Detroit	101.00	58.00
Cleveland	105.00	58.00
Chicago	86.00	51.00
St. Louis	81.00	54.00
St. Paul-Minneapolis	72.00	42.00

Pullman upper is 4/5 the price of lower.

For return via California add $18 to railroad fare, and about $11 to Pullman lower price.

Glacier National Park two-days stop-over, including use of rooms with connecting bath at hotels—two people in a room, meals, automobile and launch, $32.50.

Alaska trip, covering about eleven days, including meals and half stateroom, about $100.

Yellowstone Park, entering at Gardiner, and leaving via Cody, five days, all expenses, including hotels, meals, and automobiles, $58.

Canadian Rockies, two days at Lake Louise, and a day at Banff, about $20.

Notify F. W. Faxon, chairman of the A. L. A. Travel Committee, 83 Francis St., Boston, Mass., at once if you plan to make this trip to Seattle, giving him your preference on trips outlined above.

1. Glacier National Park. 2. Alaska. 3. Canadian Rockies return. 4. Yellowstone return. 5. California return.

MEMORIAL OF MARY SELINA FOOTE

Mary Selina Foote was born in Northford, Connecticut, October 8th, 1887 and died in New Haven, Connecticut, September 30th, 1924. She was a descendant of the first settlers of Massachusetts and Connecticut.

Miss Foote received the degree of Ph.B. from the University of Chicago and the degree of A.M. from Yale University. She was admitted to the Connecticut Bar in 1912, although she was never in active practice. Miss Foote was deeply interested in the scholarly side of her profession. She was chosen librarian of the New Haven County Law Library soon after her admission to the bar and held this position for nine years. In 1922 she became librarian and lecturer in the Law College of the University of Illinois. She pursued her studies at the University of Chicago and at Yale University while she was acting as librarian of the New Haven County Law Library. She was a most efficient librarian, and was deeply interested in library work, in which she was eminently successful. She was especially helpful to the judges of the highest courts in Connecticut in collating authorities for opinions. The Judges and members of the bar of Connecticut held her in the highest esteem.

Miss Foote was secretary and treasurer of the American Association of Law Libraries, having been elected at its annual meeting in July, 1924. She had previously held the office of Secretary of the Association from 1921 to 1923. She had earned for herself a fine position among the law librarians of the country, and her untimely death has ended a career which promised to be brilliant.

ECCLESIASTICAL LAW BOOKS IN A LAW LIBRARY*

By J. D. Cowley, M.A. (Oxon.), Assistant Librarian, Middle Temple Library, London.

It is a matter of extreme difficulty to define the term "ecclesiastical law" satisfactorily; in its widest extension it may be said to indicate all that part of the law of any country which relates to the affairs of recognized religious bodies, but since it is only in countries where a state church exists that a line can be drawn between an ecclesiastical body and a society or corporation meeting for any other common object, the term has come to mean strictly the law applicable to the established church and its members, and more narrowly still the law administered in the ecclesiastical courts. In England ecclesiastical law may be taken to include the law of the Church of England regarding doctrine, discipline, public worship and property. This law consists partly of remnants of the civil and canon law surviving after the Reformation, partly of those portions of the common law which apply to the Church, such as the law of advowsons, and partly of statute law.

For the English canon law the book of authority is Lyndwood's Provinciale or *Opus magistri Wilhelmi Lyndewoode super constituciones provinciales,* first printed at Oxford in 1483. Madan (Early Oxford Press, 1895, Appendix A) records only twenty copies or parts of copies of this first edition, most of them in the British Museum and at Oxford and Cambridge; there is also a copy at Harvard Law School, where a very fine collection of different editions of this work, including one manuscript, is preserved. The book contains the decrees of the *provincial* synods of the English church from Henry III to Henry V, with a Latin commentary by Lyndwood, who died in 1446; in the first English edition (Redman, 1534) and later editions the legatine constitutions are added; these consist of the decrees of the *national* synods held under the papal legates Otho and Othobon in the time of Henry III. Another work of authority is Spelman's *Concilia,* in two volumes, 1639-1664, an attempt to produce a corpus of English canon law. Upon Spelman's work was founded John Johnson's *Collection of all the ecclesiastical laws, canons, answers, or rescripts . . . concerning the government, discipline and worship of the Church of England, from its first foundation to the Conquest . . . and of all the canons . . . since the Conquest, and before the Reformation,* published in two volumes in 1720; a new edition, 2 vols., 1850-51, was included in the Library of Anglo-Catholic Theology. Unfortunately neither Johnson nor Spelman carried his work beyond the Reformation, so that the important canons (141 in all) enacted by Convocation in 1603 are not to be found in either of these collections; they are however included in Gibson's *Codex juris*

* Presented at the 19th Annual Meeting of the American Association of Law Libraries at Saratoga Springs, N. Y., July, 1924.

ecclesiastici Anglicani, London, 1713, and Oxford, 1761, in which all the statutes, constitutions, canons, rubrics and articles are digested. Another collection of constitutions, still referred to as an authority, is David Wilkins' *Concilia,* 4 vols., London, 1737.

The common law applicable to the Church of England is to be found of course in the reports, at first in the Year Books, later in the reports proper, and from the eighteenth century in a regular series of ecclesiastical reports. The special status of the Church in the law of England is due in the first place to the doctrine of catholicity, which gives it a sort of extra-territorial position, and later to the theory of the supremacy of the Crown as head of the Church. Out of the first doctrine grew the notion of courts with special jurisdiction in ecclesiastical matters; out of the second and thorough subordination of the ecclesiastical courts to the common law in cases of conflict and the right of appeal from the highest ecclesiastical courts to the King in Council. Originally the courts of the Church had jurisdiction in a number of matters not now considered to be ecclesiastical, such as the probate of wills and matrimonial causes; their jurisdiction is now confined entirely to ecclesiastical affairs, and only to matters of church discipline, public worship and certain offences committed by clergy; disputes about property, advowsons, tithes, etc., remain under the jurisdiction of the courts of common law and equity. It is the cases decided in the ecclesiastical courts which find a place in the ecclesiastical reports. Apart from cases heard in purely local courts the earliest collection of ecclesiastical cases is that of Edward Stillingfleet, published in two volumes, 1698-1704, containing a number of cases heard between 1690 and 1696, but earlier cases have been extracted from the act books of the courts and published by W. H. Hale in two volumes entitled *Criminal precedents* and *Ecclesiastical precedents,* published in 1841 and 1847 respectively. The regular series begins with the *Reports of cases argued and determined in the Arches and Prerogative Courts of Canterbury, and in the High Court of Delegates: containing the judgments of the Right Hon. Sir George Lee,* 1752-1758. *To which are added . . . several cases determined between* 1724 *and* 1733. *By Joseph Phillimore,* 2 vols., London, 1832-1833, generally cited as "Lee." Cases in the Consistory Court of London between 1788 and 1821 are reported by John Haggard in two volumes, London, 1822. Joseph Phillimore's reports, three volumes, London, 1818-1827, contain cases decided at Doctors' Commons and the Delegates' Court from 1809 to 1821. From 1821 to 1857 the series is uninterrupted, the years from 1822 to 1826 being reported by Jesse Addams in three volumes, London, 1823, 1825 and 1872; from 1827 to 1833 by Haggard again, in four volumes, London, 1829-1833; from 1834 to 1844 by W. C. Curteis, three volumes, London, 1840-1844; from 1844 to 1853 by J. E. P. Robertson, two volumes, London, 1850-1853; from 1853 to 1855 by Thomas Spinks (including also Admiralty cases), 2 vols., London, 1855; and from 1855 to 1857 by Deane and Swabey, London, 1858. After 1857 there is a gap until the commencement of the *Law Reports* in 1865, after which four volumes of *Admiralty and Ecclesiastical Cases,* covering the years from 1865 to 1875, appeared from 1867 to 1875. Phillimore's *Ecclesiastical Judgments,* 1876, covers nearly the same period as the *Law Reports—Admiralty and Ecclesiastical Cases.* From 1875 the *Law Reports—Probate Division* continue the series to the present day. The gap in the series from 1857 to 1865 is partially filled by Brodrick and Fremantle's *Judgments of the Judicial Committee of*

the Privy Council in ecclesiastical cases relating to doctrine and discipline, London, 1865; the cases reported range from 1840 to 1864 together with a few earlier leading cases in an appendix. Another collection of Privy Council appeals by W. G. Brooke was published in 1872, and again in 1873 and 1874, containing six cases heard between 1850 and 1872. Among the more important collaterals may be mentioned Elmes' *Cases on Dilapidations* 1829, containing cases from 1616 to 1828; *Notes of Cases in the Ecclesiastical and Maritime Courts,* seven volumes, 1843 to 1850, originally published monthly, with cases from 1841 to 1850; Cripps' *Reports of cases, relating to the Church and clergy, decided in Chancery, Common Law and Ecclesiastical Courts,* 1850; Tristram's *Consistory Reports,* 1872 *to* 1890, published in 1893; and Talbot's *Ritual Decisions,* 1894. There are also several reports of special cases, such as Dale's *Legal Ritual,* 1871, containing annotated reports of the celebrated cases of Martin v. Mackonochie, Elphinstone v. Purchas and Hebbert v. Purchas. The last case is also treated at length in a work by T. W. Perry, 1877. Two digests of ecclesiastical cases exist; one, by Edwin Maddy, was published in 1835, and contains the cases reported in Lee, Phillimore, Addams and Haggard; the other, published in 1849, by Alfred Waddilove, is a much more useful work, as it contains references to common law and equity cases and to statutes and text books. Both these digests of course contain probate and matrimonial cases.

The ecclesiastical statutes of England, Wales, Ireland, India, and the collonies, were collected by Archibald J. Stephens in two volumes, published in London in 1845, with a second edition in 1846. Stephens' statutes include all the acts relating to Church matters and to charities, etc., from the earliest times to 1844, with notes of decisions on the statutes. The various acts passed since Stephens' work appeared have not been collected together, but may be found in any complete edition of the statutes, while the more important of them are generally quoted in the textbooks. By the Welsh Church Act, 1914, that part of the Church of England which is situated in Wales is disestablished, Crown patronage ceases and the ecclesiastical courts in Wales cease to have any jurisdiction unless specially re-established. Under the Church of England Assembly (Powers) Act, 1919, a National Assembly of the Church is set up with proper representation of the clergy and laity. By this act the legislative function of Parliament in relation to the Church ceases, and the National Assembly has power to prepare measures, which may relate to any matter concerning the Church of England and may extend to the amendment or repeal of any act of Parliament, including the 1919 act itself. Measures are considered by an Ecclesiastical Committee of Parliament, and, if approved by resolution of both Houses of Parliament, become law by the signification of the Royal Assent. Up to the present time seven measures have been passed; they are obtainable from H. M. Stationery Office and are also included in the edition of the statutes issued with the *Law Reports.*

Among the English textbooks, of which there is a considerable number, should be noticed Burn's *Ecclesiastical Law,* 9th edition by Robert Phillimore, 4 vols., London, 1842, which contains the law as it stood before the more important changes of the nineteenth century. A much more authoritative work is Sir Robert Phillimore's *Ecclesiastical Law,* 2nd edition by the present Lord Phillimore, 2 vols., London, 1895. Part X of this work deals with the Church of England overseas. The best really up to date book is Cripps' *Law relating to the Church*

and clergy, 7th edition, 1921, in which the recent legislation is incorporated. A useful dictionary of Church law by Benjamin Whitehead reached its third edition in 1911. The best outline of English Church law is T. Eustace Smith's *Summary of the law and practice in the Ecclesiastical Courts,* 7th edition, 1920. The most up to date book dealing with practice alone is still Coote's *Practice of the Ecclesiastical Courts,* 1847. There is no modern work dealing specially with advowsons, a subject which has been somewhat narrowed by the Benefices Act, 1898; it will be found treated in most of the general textbooks. The foregoing are all lawyers' books. Innumerable manuals for the laity and clergy have been written; the best is undoubtedly John Henry Blunt's *Book of Church Law,* 11th edition, 1921, containing an appendix in which the Canons of 1603 and the more important statutes are set out at length. An extremely useful supplement to the purely legal works is F. Makower's *Constitutional History of the Church of England,* 1895, now out of print and very difficult to obtain; in it very many of the older documents will be found set out at length.

The ecclesiastical law of Scotland is in one way less complicated than that of England, because in that country the courts of the established church are freed from civil control, the Court of Session having repeatedly refused to interfere with decisions of the ecclesiastical courts, except where the Church courts have acted in excess of jurisdiction. The establishment rests on the Scots Act ch. 5 of 1690, which restored the Presbyterian system and ousted episcopacy; this act was ratified by the English statute 6 Anne ch. 11 as a consequence of the Union of the two Kingdoms. But the act of 1690 was itself only a ratification of a Scots Act of 1592, which contains the constitution of the Church and the powers of the courts. The highest court is the General Assembly, which hears appeals from the inferior courts generally concerning discipline, public worship or settlements under the Patronage Abolition Act, 1874. The General Assembly also exercises legislative functions and its acts are printed annually as official publications. The earlier acts are collected in *The Booke of the Universall Kirk of Scotland,* edited by Alexander Peterkin, Edinburgh, 1839, and other collections have been published. By the Auchterarder Case, 1839, the House of Lords established the inability of the General Assembly to override by its acts the statute law of the realm.

Owing to the limitation of the jurisdiction of the Scottish ecclesiastical courts to matters falling within the spiritual sphere and their independence of the civil courts there is a great paucity of reports of strictly ecclesiastical cases in Scotland. The reports of the findings of the General Assembly are to be found of course in the official proceedings of that body; but as a rule they are not such as to be of special interest to lawyers. Cases determined in the Court of Session on ecclesiastical matters—chiefly cases involving rights of jurisdiction of the courts of the various churches—are included in the *Reports of Session Cases* now in progress; fourteen leading cases of this character were reprinted in 1878 at Edinburgh under the title *Leading Ecclesiastical Cases decided in the Court of Session* 1849-1874. The important cases which led to the great secession of 1843 have also been separately edited e.g. Robertson's *Auchterarder Case,* 3 vols., 1838-1839, and by the same reporter, the *Lethendy Case,* 1839. Consistorial actions, including matrimonial causes, have only been possible in ecclesiastical courts in Scotland in the days of episcopacy; they have long since fallen within

the competence of the Court of Session. Among the more important text books on Church law in Scotland may be mentioned:—William Mair's *Digest of laws and decisions relating to the constitution, practice and affairs of the Church of Scotland, with notes and forms of procedure,* 3rd ed., 1904; the same author's *Digest of laws and decisions ecclesiastical and civil,* 4th ed., 1923; J. M. Duncan's *Parochial ecclesiastical law of Scotland,* 3rd ed., by C. N. Johnston, 1903; J. Cook's *Styles of writs in the Church courts,* 1882; W. G. Black's *Parochial ecclesiastical law,* 3rd ed., 1901; A. T. Innes' *Law of creeds in Scotland,* 1902; N. Elliot's *Erection of parishes quoad sacra and the feuing of glebes,* 1879; and the same author's *Teinds or Tithes, and Procedure in the Court of Teinds,* 1893. Mair's *Digest* is a useful work of a more or less popular kind; the remainder are lawyers' books, the most useful being Duncan and Black; Cook's *Styles* deals with procedure, while Innes' work is rather a constitutional history than a statement of the law; Elliot's works give special treatment to subjects which will generally be found adequately treated in Duncan or Black.

The Church of Ireland was united with the Church of England by the Union with Ireland Act, 1800, and by the Irish Church Act, 1869, it was disestablished and reduced to the same status as the Church in Wales under the Welsh Church Act. The act of disestablishment was designed to remove the injustice consequent upon state patronage of the protestant religion, still regarded by most Irishmen as a foreign imposition. The statute of 1869 vested all Church property in the hands of Temporalities Commissioners, made provision for the erection of the Representative Church Body, and abolished the ecclesiastical courts. The Church of Ireland thus became a voluntary church, self-governing and only liable to interference from the civil courts in cases involving property. George Atkins' *Irish Church Act,* (1869), Dublin, 1869, contains the text of the act with notes. Under the Government of Ireland Act, 1920, the Church in Northern Ireland must retain its former status, because religious matters are among the subjects of legislation expressly reserved to the Imperial Parliament; while Art. 8 of the Constitution of the Irish Free State prohibits the making of any law endowing or interfering with any religion. It is unlikely therefore that any further development of ecclesiastical law in Ireland is to be expected. The old ecclesiastical law of Ireland is largely contained in W. D. Ferguson's *New ecclesiastical code respecting the erection and endowment of churches and chapels.* Dublin, 1851; in James Lyne's *Statute law of ecclesiastical leases,* Dublin, 1838; and in E. A. Stopford's *Hand-book of ecclesiastical law and duty,* Dublin, 1861. The standard works are those by William Leigh Bernard viz. *Annuities to curates . . . under . . . the Irish Church Act,* Dublin, 1871; *Decisions under the Irish Church Acts and the Glebe Loan (Ireland) Acts,* 3rd ed., Dublin, 1873; and *Irish ecclesiastical property statutes and leading cases,* Dublin, 1876. The latter forms a complete text book of Irish Church law for the post-disestablishment period, with reports for the years 1870 to 1875. R. R. Warren's *Law of the Church of Ireland,* London, 1895, is another standard text book.

Very few reports of ecclesiastical cases in Ireland have been published, probably on account of the majority of Roman Catholics over Protestants, the former of course being unable to make use of the ecclesiastical courts. In Erck's *Ecclesiastical Register,* 1830, are contained several cases from 1608 to 1825; Milward's *Reports of cases . . . in the Court of Prerogative in Ireland, and in the Consistory*

Court of Dublin, 1847, cover the period 1819 to 1843; the reports contained in Bernard's *Church Acts* (so-called), have already been mentioned. Cases on the Irish Church Acts have been reported in the *Irish Law Reports* since their commencement in 1867. Gorges Edmond Howard's *Special cases on the laws against the further growth of popery in Ireland,* 1775, covering the period 1720-1773, are now of little more than historical interest.

The divorce law of Ireland was originally similar to that of England; divorce *a vinculo* was not recognized and divorce *a mensa et thoro* was granted by the ecclesiastical courts until their dissolution in 1869. In the following year divorce jurisdiction was transferred to the civil courts, but divorce *a vinculo* was still only possible by means of an act of Parliament, a method which had its origin in England in the 17th century and has been applied in Canada and in the State of New York. The whole subject is treated by James Roberts in his *Divorce bills in the Imperial Parliament,* Dublin, 1906, with reports of proceedings on a number of English and Irish bills. It is an open question whether procedure by act of Parliament will continue under the new regime in Ireland, but in any case the jurisdiction in matrimonial causes formerly exercised by the King's Bench Division in Dublin will, under the Courts of Justice Act, 1924, be exercised by the new High Court of the Irish Free State.

Almost all the above-mentioned works contain the law applicable to Protestants in the British Isles; the law of the Roman Catholic Church is contained in the *Codex Juris Canonici,* editions of which appear from time to time, the latest being that edited by Cardinal Gasparri, Rome, 1918. The work of course has no more than the authority of a foreign code, possibly not even the authority of the law of a recognised state.

No attempt can be made here to notice works relating to ecclesiastical law in the Dominions and foreign countries. Divorce procedure in the English-speaking countries has generally followed English precedents, modified by local statutory provisions. One of the most noteworthy developments in this direction has been the series of decisions (see Century Digest, "Divorce", para. 4) establishing the principles that in many of the American states the procedure of the ecclesiastical courts is to be adopted for divorce proceedings, although ecclesiastical courts were never set up in America during the colonial period.

THE IMPORTANCE OF PARLIAMENTARY LAW TO THE LEGAL PROFESSION *

By Lehr Fess, Clerk at the Speaker's Table, House of Representatives.

Organization is one of the most important elements of our present day society. Citizens organize for almost every conceivable purpose and individuals achieve success through organization. In theory at least this has been true from the beginning of society and government, but in this connection reference is made more particularly to this modern highly developed civilization which requires the consolidated effort of individuals for the achievement of some ideal or ambition. Together with the rapid development of many organizations as an important phase of modern life, parliamentary procedure has become more and

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more a component part of law as used in a broad sense of the term. Municipal law has been defined as the binding custom of practice of a community. It defines the rights of the individual as against his fellow men or the state, and affords a remedy for the violation of those rights. Municipal law has been subdivided into a number of branches the most important of which is the common law. Parliamentary law is a branch of the common law to which little attention has been paid by jurists but which with this modern development of society should receive more serious concern. It is generally true that the rules governing the procedure of a body do not afford members of the body protection in a strictly legal sense. The violation of the rules of procedure does not give the member a right to have the violation redressed in the courts of law unless the violation goes to the extent of violating some right which the law of the land itself affords. But if one is to succeed in impressing his thoughts and opinions on others and have those opinions supported by others he must have some knowledge of parliamentary procedure in order to properly promulgate and defend his ideas.

This practise governing the procedure of legislatures, conventions, and political, literary, scientific, benevolent and religious societies, takes its name from the law which governs the procedure of parliament. In a strictly technical sense it applies only to legislative procedure, but in its general sense it is the law which governs the procedure of all societies. Perhaps there is no branch of the law, if it may be termed a branch of the law, that is subject to so many variations, where the rules of conduct are so different in their application and construction, as that of parliamentary law. The rules of the national House of Representatives are perhaps the most highly developed and established of any system in this country, but nevertheless a day rarely passes without some controverted question of order having been raised and discussed.

Early in the parliament history of the House Thomas Jefferson as Vice President wrote a manual of procedure for his own guidance while presiding over the Senate. This code was adopted by both branches of congress and in so far as it is applicable governs the procedure in the House today. This manual was based very largely on English procedure and in his preface Jefferson gives credit to Hatsel's Precedents of the House of Commons, and often cites Elsynge, Grey and Blackstone. Very early in our congressional history a rule was adopted which required the Clerk of the House to print all questions of order decided in the House as an appendix to the Journal. These questions found in the Journals gradually developed into a body of precedents. A digest of rules was published at frequent intervals and also one or two publications of precedents. In 1907 the House published a compilation of precedents by Asher C. Hinds who had then been clerk at the Speaker's Table for a period of twelve years. This work contains all the important decisions made in the House and consists of five large volumes of precedents of over a thousand pages each and an index-digest of three volumes. It was thought that by publishing these precedents the time used by the House in discussing points of order could be saved and that every conceivable situation would be covered and the procedure thereby standardized. However new questions continue to rise every day many of them concerning rules long established. The House is now publishing a supplement to Hinds' Precedents covering the period from 1907 to 1923 which will consist of two or three additional volumes of precedents. This is mentioned to indicate the importance which parliamentary law plays in the procedure of our national house

and also to indicate the many variations that may arise in the interpretation and construction of these particular rules.

If the questions decided in the House of Representatives with a fixed code of rules occupy between eight and ten thousand pages of printed matter it is apparent that a vast field for contrariety of opinion must exist in the interpretation of the rules of procedure of literary or scientific societies. Writers of parliamentary text books in this country have attempted to follow the procedure of the House but it is evident that those rules can only be cited in a very limited number of cases which arise in other bodies and associations.

The pressure of the public business has made it necessary for congress to be in session almost continuously during the past fifteen years. For more than two hundred days each year during these years Congress has been in actual session. The House has become a body of four hundred and thirty-five members. With this increase of business and of personnel the rules have gradually changed so as to restrict the rights and prerogatives of the individual for the general welfare of the House and the country as a whole.

A few examples of this feature may be of interest. The demand for the previous question, which in its inception was a motion used for the purpose of bringing the body back to the consideration of the main question from which it had been diverted by another question, has developed into the severest method of cloture known in legislative history and brings the body to an immediate vote when ordered on the main question and all questions incidental thereto. By way of further example the motions for a recess or to fix the hour or day to which the House shall adjourn are in order only by the unanimous consent of the House in the event the regular order is demanded, or in other words, no motion except one expressly or impliedly found in the rules is in order as against the demand for the regular order. The motion to suspend the rules is in order only on two days of a month and is not used for the purpose of amending or waiving specified rules, but is used for the purpose of waiving all rules and passing a measure with limited debate and without amendment.

These examples illustrate how difficult it would be to apply the rules of the House to ordinary parliamentary procedure. Nevertheless it is advisable to have some set of rules as a guide and for that reason text writers have adopted those of the House of Representatives.

Before Jefferson's time precedents rather than principles were followed and the result was a confused mixture of rules that could not be termed a system of law. But in spite of the variations in construction there has gradually developed what may now be termed a complete system of rules, the fundamental structure of which is fixed and based upon logic and reason. As Speaker Reed so aptly stated: "Whatever concerns large bodies of men, and is thought over by large numbers of intelligent people, gets infiltrated with the common sense of the many and becomes adapted to their wants and needs." Outside the regularly constituted legislative assemblies and councils, we have the political conventions, town meetings, literary and benevolent societies, corporate meetings, citizens associations and mass meetings. In all such assemblies of the people, there is an obvious need of parliamentary law in order to make for orderly procedure and the accomplishment of the purpose without discord.

Parliamentary rules are primarily for the protection of the minority. The majority can always function without regard to rules. Jefferson's quotation from

Onslow, who he terms "the ablest among the Speakers of the House of Commons" cannot be over-emphasized. Speaker Onslow said: "It was a maxim he had often heard when he was a young man, from old and experienced members, that nothing tended more to throw power into the hands of the administration, and those who acted with the majority of the House of Commons, than a neglect of, or departure from, the rules of proceeding; that these forms, as instituted by our ancestors, operated as a check and control on the actions of the majority, and that they were in many instances, a shelter and protection to the minority against the attempts of power." As it is always in the power of the majority, by their numbers, to stop any improper measures proposed on the part of their opponents, the only weapons by which the minority can defend themselves against similar attempts from those in power are the forms and rules of proceeding which have been adopted and have become the law of the House. Another important maxim of Hatzel is: "It is much more material that there should be a rule to go by than what that rule is; that there may be a uniformity of proceeding in business not subject to the caprice of the Speaker or captiousness of the members. It is very material that order, decency, and regularity be preserved in a dignified public body."

It is peculiarly the duty of the chairman of a meeting as well as of the members to insist on regularity. The chairman should be fair but firm especially in case of a spirited contest. Irregularity not only leads to confusion but often results in bitterness and disruption. On the other hand the real purpose of a meeting should not be submerged in merely technical parliamentary discussion. The stickler for parliamentary forms who is constantly raising questions of order to the great embarrassment of the chair and the discomfiture of the members may be an important functionary, but his efforts should be tempered with a certain amount of good sense and a modicum of respect for his less enlightened but well meaning colleagues. It is therefore important that the law of procedure should be as definite as possible consistent with the nature of the organization to which it is to be applied. Definite rules should be adopted and a definite code provided in the by-laws.

The legal profession has a duty imposed upon it to insist upon regularity of procedure. The lawyer knows the importance of precedent and of the doctrine of stare decisis. Today he is not merely a jurist, a solicitor or a special pleader, but he is the advisor and counselor of men of affairs who rely upon his judgment to guide and direct their courses of procedure. When men contemplate a business venture the legal mind is more often consulted in advance rather than after trouble has ensued. Therefore it is highly important that the lawyer should know when he is consulted with reference to a proposed course of action in a meeting what is likely to be the most expeditious and sensible route to follow as well as the strictly legal aspects of the situation. He becomes a parliamentary as well as a legal advisor, and if friction unnecessarily arises in the meeting which results disastrously he is responsible.

Too many actions at law arise out of misunderstandings. A man is not deeply concerned if he is beaten in a fair fight, but if he believes something has been accomplished surreptitiously to his disadvantage he is usually ready to go at once to the court for redress. If the rules of procedure were understood and a fair attempt made to follow them less friction and more constructive action would result.